To amend the Outer Continental Shelf Lands Act to prohibit preleasing, leasing, and related activities in the Beaufort and Chukchi Sea Planning Areas unless certain conditions are met.

IN THE HOUSE OF REPRESENTATIVES

Mr. INSLEE introduced the following bill; which was referred to the Committee

A BILL

To amend the Outer Continental Shelf Lands Act to prohibit preleasing, leasing, and related activities in the Beaufort and Chukchi Sea Planning Areas unless certain conditions are met.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Polar Bear Seas Protection Act”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) Americans cherish healthy oceans and wildlife that marine ecosystems support, and feel a strong moral responsibility to protect these resources for the benefit of current and future generations.

(2) The marine ecosystems and coastal habitats of the Beaufort and Chukchi Seas, along Alaska’s northern and northwestern shores, provide habitat for a large array of wildlife, including endangered bowhead whales, beluga whales, polar bears, threatened spectacled eiders, threatened Steller’s eiders, walrus, seals, and fish.

(3) These ecosystems and wildlife they support are vital to the survival of the subsistence cultures of the Alaska Native peoples of the North Slope and have been for thousands upon thousands of years.

(4) There is a wide consensus among scientists that the Arctic is undergoing dramatic changes due to climate change, and that these changes are affecting vital sea ice habitat for a number of species, including polar bears, walrus, and seals.

(5) In January 2007, the United States Fish and Wildlife Service proposed listing the polar bear (Ursus maritimus) as a threatened species under the Endangered Species Act of 1973. The polar bear depends on sea ice as a platform to hunt seals, its pri-
mary food, and projected loss of sea ice due to global warming was believed to jeopardize polar bears throughout their range.

(6) On January 9, 2008, the Department of the Interior missed the legal deadline to make a final rule on whether to provide Endangered Species Act of 1973 protections to the polar bear.

(7) On February 6, 2008, the Department of the Interior moved forward with oil and gas leasing in the Chukchi Sea Lease Sale 193 area, which contains about 29.4 million acres offshore Alaska from north of Point Barrow to northwest of Cape Lisburne, which is polar bear habitat.

(8) On April 19, 2008, a United States District Court Judge ruled that the Department of the Interior must make a decision on whether to list the polar bear under the Endangered Species Act of 1973 by May 15, 2008.

(9) In September 2007, the United States Geological Survey issued a series of reports that projected changes in future sea ice conditions, if realized, will result in loss of approximately 2/3 of the world’s current polar bear population by the middle of the 21st century and extirpation of polar bears in Alaska. The agency also concluded that because the
observed trajectory of Arctic sea ice decline appears to be underestimated by currently available models, this assessment of future polar bear status may be conservative.

(10) While the major threat to polar bears is global warming, resulting from continuing emissions of green house gases, potential oil and gas development in the Beaufort and Chukchi Seas poses additional risks to polar bears and other marine life in the Beaufort and Chukchi Seas.

(11) There is currently no effective means to recover spilled oil in the harsh environment of the Beaufort and Chukchi Seas, especially during periods of solid and broken ice.

(12) The Minerals Management Service’s 2007-2012 OCS leasing plan anticipates offering 40 million acres of the Chukchi Sea for lease and expanding leasing in the Beaufort Sea to 33 million acres. All of this area overlaps with vital polar bear habitat.

(13) In the environmental impact statement for the first of five lease sales planned for the current 5-year OCS leasing plan in the Arctic Ocean, Lease Sale 193 in the Chukchi Sea, the Minerals Management Service concludes that the effects of a large oil
spill, particularly during the broken-ice period, could pose significant risks to the polar bear population, and that a large oil spill could have significant impacts on other marine mammals including whales and walruses. In the same document the agency states that there was a lack of information on marine mammal ecology, and habitat use.

(14) In addition, onshore industrial development activities necessary to support offshore oil and gas development can damage important habitat and cause harmful disturbance of denning polar bears, and other wildlife.

(15) Because of the threats oil and gas development poses to subsistence resources, public health, and survival of their culture, tribal governments, including the Native Village of Point Hope, the Native Village of Barrow, the Inupiat Community of the Arctic Slope, and the Alaska Intertribal Council, have expressed opposition to offshore oil and gas development in the Beaufort and Chukchi Seas.

SEC. 3. PROHIBITION ON LEASING IN BEAUFORT AND CHUKCHI SEA PLANNING AREAS.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:
“(q) **Prohibition on leasing in Beaufort and Chukchi Sea Planning Areas.**—

“(1) The Secretary shall not offer for or approve leasing, preleasing, or any related activity (including approving any seismic activity, offering any new lease, or approving an exploration or development plan) within any area of the Chukchi or Beaufort Sea marine and coastal ecosystems until—

“(A) the National Research Council—

“(i) identifies missing information on the composition, distribution, status and ecology of the living marine resources in the Beaufort and Chukchi Sea marine and coastal ecosystems that—

“(I) focuses on the changes caused and likely to be caused by climate changes; and

“(II) supports the establishment of baseline information and the determination of the potential impacts, including cumulative impacts, of all oil- and gas-related activities on plant and animal species, marine and coastal environments, and Alaskan Native com-
munities and their subsistence activities;

“(ii) reports on the adequacy of ongoing and completed environmental, public health, and cultural studies (including ongoing and completed studies conducted by the Alaska environmental studies program of the Minerals Management Service) in providing information described in clause (i); and

“(iii) submits to Congress a report that—

“(I) identifies missing information;

“(II) evaluates the adequacy of ongoing and completed studies; and

“(III) makes recommendations on any additional studies or research that are required to provide missing information identified pursuant to clause (i);

“(B)(i) the polar bear is listed as an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C.
1531 et seq.) and critical habitat is designated for the species; or

“(ii) the Secretary publishes a determination that such a listing is not warranted;

“(C) the Secretary –

“(i) performs an oil spill response gap analysis for proposed and existing arctic oil operations;

“(ii)(I) using a public process that includes consultation with local governments, tribal governments, natural resource managers, and other stakeholders, sets a standard required of lessees to ensure that at least 85 percent of the total volume of spilled oil can be recovered mechanically and removed from the environment within 30 days after the initial release in any ice condition or season of the year;

“(II) demonstrates that the 85 percent recovery standard can be achieved prior to issuing any leases, and prior to approving any seismic exploration, exploration plans, or development and production plans; and
“(III) requires that the oil spill response gap for activities under each lease ensures 85 percent oil recovery in any given ice condition or season of the year;

“(iii) implements a procedure to close areas in whole or seasonally to oil and gas activity because of the existence of a response gap; and

“(iv) establishes requirements for installing, operating, and maintaining oil spill prevention systems, or institutes operating restrictions to improve safety and minimize spill risks; and

“(D) the Secretary determines that—

“(i) all recommendations submitted by the National Research Council report under subparagraph (A)(iii)(III) are implemented;

“(ii) oil and gas exploration and development activities can be conducted in the Beaufort and Chukchi Sea Planning Areas without posing a risk of substantial adverse impact to wildlife, or wildlife habitat and subsistence; and
“(iii) any mitigation measures necessary to avoid such risks are identified and the efficacy of the measures is established.

“(2) In this subsection:

“(A) The term ‘response gap’ means a period of time during which the oil spill recovery standard established pursuant to paragraph (1)(C)(ii)(I) cannot be achieved.

“(B) The term ‘response gap analysis’ means—

“(i) a calculation of the response operating limits of spill response systems for a set of environmental factors, such as wind, sea state, sea ice, and visibility, and an analysis of the frequency, duration, and timing of conditions that would limit a response in a particular location, including an assessment of local response capabilities and oil spill contingency plans, using a methodology that accounts for the cumulative interplay between factors that would cause two or more variables that are individually within the system’s limits to exceed those limits when combined;
“(ii) based on such calculation, an assessment of the frequency, duration, and timing of occurrence of one or more limiting factors or limiting combinations that may preclude achieving the oil spill recovery standard established pursuant to paragraph (1)(C)(ii)(I) using either modeled or historical environmental and climate data for a given location or area; and

“(iii) based on such calculation and assessment, a quantification of the percentage of time during which local conditions exceed the demonstrated limits of spill response systems to achieve achieving the oil spill recovery standard established pursuant to paragraph (1)(C)(ii)(I).”.